



Education Law Alert April 2014

School Ordered to Tear Down Bleachers After Title IX Violation

As we have reported in numerous past editions of the *Education Law Alert*, issues under Title IX continue to cause problems for schools across the United States. While the rush of Title IX issues of late has applied to sexual harassment and assault, Title IX continues to be applied in athletics at the K-12 and postsecondary level. This month, a high school in Michigan was required to tear down baseball bleachers that were built with fund-raised dollars. The Plymouth High School Baseball Boosters were responsible for the baseball bleacher improvements after over six years of fundraising efforts. The modifications to the bleachers were completed to give spectators a better view of the field.

After the bleachers were completed, an anonymous complaint under Title IX was filed with the United States Department of Education ("US DOE") alleging gender inequality because new bleachers and other improvements were not constructed at the women's softball field. The school was forced to tear down the new bleachers but will hold onto them until it determines how best to proceed.

Sources: [Huffington Post](#); [Yahoo! Sports](#).

Civil Rights Data for Every Public School Released by US DOE

For the first time in 15 years, the US DOE has released civil rights data from all public schools in the United States. The data was compiled from 97,000 public schools (16,500 school districts) representing approximately 49 million students. The civil rights data is fully accessible to the public at the following link: crdc.ed.gov. According to a press release issued by the US DOE, there is concern "around discipline for our nation's young men and boys of color, who are disproportionately affected by suspensions and zero-tolerance policies in schools. Suspended students are less likely to graduate on time and more likely to be suspended again. They are also more likely to repeat a grade, drop out, and become involved in the juvenile justice system." The press release also highlights these additional findings (quoted from press release):

Access to preschool. About 40% of public school districts do not offer preschool, and where it is available, it is mostly part-day only. Of the school districts that operate public preschool programs, barely half are available to all students within the district.

Suspension of preschool children. Black students represent 18% of preschool enrollment but 42% of students suspended once, and 48% of the students suspended more than once.

Access to advanced courses. Eighty-one percent (81%) of Asian-American high school students and 71% of white high school students attend high schools where the full range of math and science courses are offered (Algebra I, Geometry, Algebra II, Calculus, Biology, Chemistry, Physics). However, less than half of American Indian and Native-Alaskan high school students have access to the full range of math and science courses in their high school. Black students (57%), Latino students (67%), students with disabilities (63%), and English language learner students (65%) also have less access to the full range of courses.

Access to college counselors. Nationwide, one in five high schools lacks a school counselor; in Florida and Minnesota, more than two in five students lack access to a school counselor.

Retention of English learners in high school. English learners make up 5% of high school enrollment but 11% of high school students held back each year.

Source: [US DOE](#).

Federal District Court Rules that Justice Department can Review Voucher Program in Louisiana

A federal district court in Louisiana has ruled that the United States Department of Justice can review which students in Louisiana are getting private school vouchers so that it can insure that the voucher program is not preventing efforts to desegregate public schools. The Justice Department asked to halt the private school voucher program in certain districts under certain circumstances. While the Court did not issue an injunction directed at the voucher program, which the Department alleged was making public schools less diverse, the Court did mandate that the schools must provide the Department with information on which students are attending private schools each year.

Source: [New Orleans Times Picayune](#)

5.25 Million Dollar Verdict Against Charter School for Student Bullied into Sexual Acts

After two years of litigation, a jury awarded \$5.25 million in damages to a student who sued a Miami charter school, alleging that the school was negligent and failed to intervene to prevent an eleven year old student from sexually abusing him when he was seven years old. The victim alleged that he was bullied into performing sexual acts on the student in the school's bathroom and in a school vehicle.

Source: [Miami Herald](#)

From the Lighter Side: An Unconventional Happy Birthday Lands a Teacher in Hot Water

Rather than having the students in her class sign a birthday card or sing Happy Birthday to one of her students on his birthday, a middle school teacher in Houston, Texas performed a four minute lap dance on the male student in a chair in front of a classroom full of students. The teacher concluded the lap dance by hugging the boy and telling him, "I love you baby, happy birthday." She attempted to place blame on the students, claiming that they convinced her to do it. The middle school teacher is now facing felony criminal charges of engaging in an inappropriate relationship with a student. The teacher was immediately removed from campus and has not returned. Though it is unlikely the teacher will ever return to teaching, next time, maybe a trip to the Hallmark store for a birthday card would be the better approach.

Story here: [ABC Local News](#)

US Department of Education Title IX Investigation into Harvard Law Continues

The investigation into a 2010 complaint alleging that Harvard Law School violates Title IX in the manner it handles sexual assault cases has eclipsed its fourth year. Although a spokesperson for the U.S. Department of Education's Office of Civil Rights issued a statement that most complaints are resolved within 180 days, the Harvard Law case has been pending for over four years. The 2010 complaint was filed by a professor at New England School of Law; that same professor has filed complaints against Yale University and Princeton University. Still, Harvard acknowledged that in late March of this year, two people at Harvard filed separate but similar Title IX complaints, after which the University announced the creation of a task force.

Story here: [The Crimson](#)

Lack of Lacrosse Playing Time Leads to Lawsuit from Disgruntled Parent

A school in Texas is facing a lawsuit from the parent of a student lacrosse player because of the lack of playing time his son was afforded as a member of the team. The lawsuit is brought pursuant to the Racketeer Influenced and Corrupt Organizations Act, or RICO. The allegations include that the school forced wealthy parents to pay money to gain playing time on the lacrosse team and that this amounted to a violation of RICO.

Read more here: [Fox Dallas](#)

US Department of Education Expands Protections Under Title IX to Transgender Students

Just recently the United States Department of Education indicated that transgender students are protected by the Title IX's prohibition against discrimination on the basis of sex. The Department of Education indicated in guidance that "Title IX's sex discrimination prohibition extends to claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity and OCR accepts such complaints for investigation."

Read more: [Department of Education](#)

Firm News

Terry J. Harmon was interviewed on April 4, 2014, by WCTV (CBS) for its Eyewitness News at 6 story on sex discrimination cases brought against educational institutions under Title IX. A portion of Mr. Harmon's interview was aired on Eyewitness News at 6. The story is available at the following link: [WCTV's Title IX story](#).

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